

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/120,970	07/22/98	CURTISS	R MEGAN-100CON

ELIE H. GENDLOFF
HOWEEL & HAFERKAMP, L.C.
7733 FORSYTH, SUITE 1400
SAINT LOUIS MI 63105-1817

HM22/0927

EXAMINER

PORTNER, V

ART UNIT

PAPER NUMBER

1645

16

DATE MAILED:

09/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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09/20/97

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	116

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 8/10/01 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: New combinations of claim limitations have been submitted that raise new issues. See attachment.

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: none

Claims objected to: none

Claims rejected: 36-39, 41-65, claims 66-76 nonelected.

However,

☒ Applicant's response has overcome the following rejection(s): The Amndt was not entered.

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because See attachment

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

LYS
LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Art Unit: 1645

Response to Request for Reconsideration

1. The proposed claim Amendment of claims 30 and 31 have not been entered because the claims have not previously recited the combination of claim limitations of “under the control of an environmentally regulatable control sequence” and “the essential gene is a copy of a native gene wherein the chromosomal copy of said native gene is inoperable.”

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2. Arguments are presented at page 4, paragraphs 1 and 2, directed to the newly submitted claim limitations not previously considered.

3. In light of the newly proposed claim limitations raising new issues requiring further consideration and search, the proposed claim Amendment submitted After Final has not been entered.

4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginny Portner whose telephone number is (703)308-7543. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM except for the first Friday of each two week period.

Art Unit: 1645

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909. The fax phone number for this group is (703) 308-4242.

The Group and/or Art Unit location of your application in the PTO will be Group Art Unit 1645. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to this Art Unit.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vgp

September 24, 2001